

FIGS. 4-6 may be issued to each player and to the dealer. The players and dealer then use the wild card repeatedly in conjunction with each four-card hand dealt to them to make a five-card poker hand. In a five-card game each player and the dealer may substitute the wild card for any card in their hand to improve the five-card hand they hold."

A fair reading of the entire passage clearly indicates that Webb is talking about a five-card poker game. The game is played with a 52-card deck, and he clearly states that both the dealer and the player are dealt a wild card and is used with the other four cards dealt to each player and the dealer. Hence, in essence, the player and the dealer are each dealt four cards but use a fifth card, namely the wild card, in establishing a wagering hand. Reference should also be noted to the last sentence of that column, that is column 8, lines 54 – 57 wherein the following is stated:

"According to each of these embodiments, the dealer is also preferably provided with the same number of standard cards and a wild card as provided to each player."

It is therefore submitted that nowhere in this passage is there any indication that Webb anticipated playing a four-card hand using a standard deck but without any wild cards. A fair reading of the entire patent fails to disclose any anticipation providing a poker game wherein a player is provided with four cards and the dealer is provided with four cards to make a wagering poker hand.

It is noted in the rejection set forth by the examiner as set forth above, the examiner made reference only to two lines of column 8 extracting those two lines and ignoring the rest of the passage. The rest of the passage clearly indicates that the player is provided with a wild card, which is used in order to make the wagering hand. Therefore, in essence, the four cards which are dealt to the player and the dealer becomes a five-card hand when the wild card is added to the four. That is the disclosure of Webb.

Furthermore, Webb does not use a standard 52-card deck. He uses 52 cards plus at least 2 wild cards, i.e. one goes to the dealer and one to the player, and if more than one player is playing, then more than 2 wild cards are employed in his poker game. Applicant on the other hand uses no wild cards and uses only a standard 52-card deck. No joker or other wild cards are employed by applicant's game.

The examiner further makes reference to columns 7, lines 36 and 37 to support his position that the dealer must achieve a predetermined minimum hand ranking of "queen high hand or better" or the dealer loses all

cards. On page three of the office action, the examiner uses the same passage, namely, column 7 lines 36 – 40 for the position that the players best four-card hand is compared to the dealers best four-card hand to determine the relative ranking and if the players hand outranks the dealers hand the player is paid an amount based on the first wager and third wager.

Applicant submits that the passage in column 7 lines 36 – 40 has an antecedent, the entire passage starting at column 7 line 3. If one looks at column 7, starting at line 3 which is the beginning of that passage, the following is recited in the Webb patent:

(Column 7, starting at line 3)

“When the above wagers are in place, the dealer preferably shuffles the cards (manually or otherwise) and then deals a three-card hand to each player and to himself.

The cards may initially be dealt to the players face up or face down depending upon casino policy. ....”

The remaining passage from lines 8 down through line 43 deal with the manner in which the wagers are made and how winning and losing is determined. The examiner has extracted lines 36 and 40 for claiming that the players best four-card hand is compared to the dealers best four-card hand when in fact that is not set forth at all. Once again, the passages in column 7 lines 36 – 40 recited that if the dealer has a “queen high hand or better” each player’s hand is compared with that of the dealer. This passage relates directly back up to a three-card poker game since that is what is being discussed in the appropriate column noted by the examiner. There is absolutely no mention of a four-card hand of the dealer being compared to the player’s four-card hand to determine the winning hand.

It is therefore submitted that the examiner has erroneously extracted four lines from the entire passage to attempt to justify the position when in fact Webb does not disclose any four-card poker game.

The examiner has rejected claim 4 and cites the Webb patent column 9, lines 13 – 20. It is noted that claim 4 relates to the placing of additional side bets and includes the methodology involved in an optional progressive wager for a five-card progression. A fair reading of Webb clearly indicates that Webb teaches combining player and dealer cards to create a side progressive bet or wager. This is different than the methodology applied by applicant’s game. Applicant does not combine the dealer and player cards incident to a side

progressive bet and therefore, it is submitted that the recitation of column 9 lines 13 – 20 is not applicable to applicant's invention.

The reliance by the examiner on the Scott patent is that the Scott patent teaches a bad bet wager. Scott does teach a bad bet wager, but the bad bet wager is against the other player and a published ranking. Applicant does not teach or claim a bad bet wager of that nature. Applicant's bad bet wager is a bad bet against the dealer only. Hence, the entire nature of the game is different.

As further evidence of the fact that neither Webb nor any of the other prior art discloses a four-card poker game, the examiner is invited to review the Scarne's Encyclopedia of Card Games – First Quill/Harper Resource addition published in 2001. Attached to this amendment is exhibit A that is a photocopy of the first three pages of the cited encyclopedia for the examiner's quick reference. The examiner is well aware, that the subject Encyclopedia of Card Games is a virtual "bible" of poker games. A review of the Encyclopedia clearly indicates that there is absolutely no disclosure or even appreciation of a four card poker game. Hence, it is therefore submitted that even the main principal reference in the relevant art field fails to disclose a four-card game which existed prior to applicant's invention as set forth herein.

Applicant further reiterates what was set forth in the specification, that the odds and probabilities of winning or losing in a four card game differ dramatically than the probabilities or odds of winning or losing in a five-card game. Once again, since Webb employs a wild card in addition to the four-cards dealt to each party in the game, he creates a five-card game incident to which the odds of winning are based upon the odds of five-card probability. Applicant uses a four-card game, no wild card, and hence, pits the dealer's four-card hand against the player's four-card hand. As was disclosed in the specification, the odds of winning and the probabilities involved are totally different in that they favor the player more than in a five-card game. Since the odds of winning are improved in a four-card game, the game becomes more interesting to a player. This is a significant point since the purpose of the four-card poker game is to enhance the interest of the player in playing the game by giving him a greater probability of winning. Nowhere in the prior art is there a game based on the odds of winning regarding a four-card hand versus a five-card hand.

It is therefore submitted that clear reading of Webb indicates that Webb only discusses dealing four cards in addition to a wild card, which is given to both the dealer and the player. Hence, the best hand is made out of five cards in total made up of the four cards that are dealt and a wild card given to each

player and the dealer. It is therefore submitted that Webb discloses a five-card game and not a four-card game.

It is submitted that when one reviews the cited references that the examiner has noted in the passages cited in the Webb patent as well as the Scott patent, neither reference teaches a four-card poker game of the type applicant has developed and set forth in its specification and as claimed in the claims. It is therefore submitted that neither Webb nor Scott rise to the level of a section 102 rejection and that that rejection is certainly inappropriate. It is furthermore submitted that Webb does not even hint at a four-card game and therefore even if one attempted to use a 103 rejection as the examiner has done with respect to claims 5 and 6, one still does not get to an appropriate rejection for the reason that Webb totally fails to disclose or even appreciate a four-card poker game. That being the case, the 103 rejections would be inappropriate and it is specifically noted that the examiner has applied the 103 rejections only to claims 4 and 5, which are both, dependent claims depending from claim 1. It is noted that claim 5 is dependent on claim 1, and claim 6 depends on claim 5 thereby making each of those claims dependent on claim 1. It is submitted that since Webb fails to disclose or even appreciate a four-card game, that the reference fails to even meet a 103 requirement for an appropriate rejection.

For the reasons set forth above, it is submitted that present application and the claims in their present format clearly disclose a four-card poker game which is unanticipated by any of the art submitted by the examiner, and certainly not even anticipated by the main reference in the art field, that is Scares Encyclopedia of Card Games. It is therefore respectfully requested that the examiner find that the present application is allowable over the art of record and issue a notice of allowance to that effect.

Respectfully submitted,

KNECHTEL, DEMEUR & SMLAN

By: \_\_\_\_\_

Basil E. Demur  
KNECHTEL, DEMEUR & SMLAN  
130 S. Oak Park Avenue  
Oak Park, IL 60302  
Tel: 708-848-0111  
Fax: 708-848-9470

Basil E. Demeur  
Reg. No. 23,049

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## EXHIBIT A

**-SCARNE'S-**  
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**OF**  
**CARD**  
**GAMES**

**ALL THE RULES FOR  
ALL THE GAMES YOU'LL  
WANT TO PLAY**

BY THE WORLD'S FOREMOST  
AUTHORITY ON CARDS & GAMBLING

**JOHN SCARNE**



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# Scarne's ENCYCLOPEDIA OF CARD GAMES

by John Scarne



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